

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009CH1923
KEIYA MONTICELLO )	HUD NO.: 050904128
)	ALS NO.: 09-0622
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Diane M. Viverito, and Nabi Fakroddin, upon Keiya Monticello's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009CH1923; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. On December 22, 2008, the Petitioner filed a charge of discrimination with the Respondent, and the charge was perfected on May 15, 2009. The Petitioner alleged that the Housing Authority of County of Cook, ("HACC") violated Section 3-102.1(c)(2) of the Illinois Human Rights Act (the "Act"), in that HACC failed to reasonably accommodate her physical disability, psoriatic arthritis/mobility impairment (Count A) and her mental disability, depression and/or anxiety disorder (Count B), by failing to process and approve her application for subsidized housing on an expedited basis. The Petitioner further alleged HACC failed to reasonably accommodate her physical disability (Count C) and her mental disability (Count D), by failing to grant the Petitioner a rent exception for the value of her housing voucher, which exception would have allowed the Petitioner to lease an apartment for an amount in excess of her voucher limit. On October 8, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On October 30, 2009, the Petitioner filed this timely Request.
2. The Petitioner is a participant in the Federal Housing Choice Voucher Program (the "Program"). The Program issued the Petitioner a housing voucher in the amount of \$ 944.00.

---

<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. Initially the Petitioner used her voucher to locate housing within the jurisdiction of the DuPage County Housing Authority. In October 2008, the Petitioner contacted HACC to have her housing voucher transferred to HACC's jurisdiction.
4. On October 24, 2008, the Petitioner submitted to HACC a physician's note dated October 20, 2008. The Petitioner's physician requested that HACC expedite the processing of her housing application as an accommodation for the Petitioner's disabilities. On the same date, the Petitioner submitted an application for HACC to approve an apartment at 739 Dobson in Evanston, Illinois (the "Dobson Apartment").
5. Within 10 days of the Petitioner's request to approve the Dobson Apartment, HACC inspected the Dobson Apartment. Within six (6) days of the inspection, HACC notified the Petitioner that the Dobson Apartment was not approved because the rent was \$ 1050.00, which exceeded the Petitioner's \$ 944.00 voucher amount. The owner of the Dobson Apartment was not willing to lower the rent, and subsequently rented the unit to a tenant who could pay the market rate rent of \$ 1050.00.
6. On November 4, 2008, and November 12, 2008, the Petitioner submitted additional letters from her physician to HACC. The letters again requested that HACC expedite the processing of her housing application as a reasonable accommodation for her disabilities.
7. On November 20, 2008, the Petitioner requested that HACC approve an apartment for her on Howard Street in Evanston, Illinois (the "Howard Apartment"). The rent for the Howard Apartment was listed at \$ 915.00. Two days thereafter, on November 22, 2008, HACC issued a Unit Inspection Report on the Howard Apartment, which indicated the Howard Apartment had passed HACC's inspection. On December 4, 2008, HACC approved the lease for the Howard Apartment.
8. HACC processed the Petitioner's applications for the Dobson Apartment and the Howard Apartment in less than 16 days per application.
9. However, the Petitioner alleged in Counts A & B of the charge that HACC failed to expedite the processing of her housing applications, thus failing to reasonably accommodate her disabilities. As to Counts C & D, the Petitioner alleged that on October 15, 2008, her caretaker submitted to HACC a request for a rent exception as a reasonable accommodation for her disabilities. The Petitioner alleged that if HACC had granted her rent exception request, the Petitioner could have leased the Dobson Apartment. The Petitioner alleged HACC violated Section 3-102.1(c)(2) of the Act, which provides:

**It is a civil rights violation...to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling...**

10. R. Flores, who was an Office Assistant for HACC at the relevant time alleged in the charge, acknowledged that on October 15<sup>th</sup>, the Petitioner's caregiver had attended an HACC orientation session on the Petitioner's behalf. Flores also acknowledged that the caregiver had delivered to Flores a handwritten note from the Petitioner wherein the Petitioner requested a rent exception. However, HACC contends that when the Petitioner's caretaker submitted the Petitioner's housing application to HACC on October 24, 2008, the Petitioner did not include a request for a rent exception with the application. HACC contends that only the physician's note dated October 20<sup>th</sup> was included with the Petitioner's application.
11. In her Request, the Petitioner argues she provided the Respondent with proof of the date that her caretaker went to HACC's offices to submit the Petitioner's request for a rent exception. Further the Petitioner states that her request for HACC to expedite the processing of her application for the Dobson Apartment was denied because, according to the Petitioner, the Dobson Apartment was ready to be inspected as of October 19, 2008 but HACC did not inspect the Dobson Apartment until the first week of November 2008. The Petitioner argues HACC discriminated against her because of her disabilities, and that this discrimination caused her to be temporarily homeless, during which time she was attacked. The Petitioner also claims HACC's alleged conduct caused her mental disabilities to worsen. Finally, the Petitioner alleges that HACC violated Section 504 of the Rehabilitation Act of 1973, which is a federal statute.
12. In its Response, the Respondent asks the Commission to sustain its dismissal of Counts A & B of the Petitioner's charge because the evidence shows that HACC processed the Petitioner's applications on an expedited basis, in that HACC processed each of her application requests within 16 days or less. As to Counts C & D, the Respondent assumes the Petitioner properly submitted a request for a rent exception to HACC as to the Dobson Apartment. However, the Respondent argues its dismissal of those counts was proper because there was no substantial evidence the Dobson Apartment contained specific features necessary to accommodate the Petitioner's disabilities, and that apartments with those specific features were not otherwise available within the limits of the Petitioner's voucher amount. Finally, although the Petitioner contends HACC violated Section 504 of the Rehabilitation Act of 1973, the Respondent contends neither it nor the Commission have the jurisdiction to enforce a federal statute.

## **CONCLUSION**

The Commission concludes that the Respondent properly dismissed all counts of the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D) (West 2010). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258 (Ill.Hum.Rts.Com.)

As to Counts A & B, the Commission finds there is no substantial evidence that HACC failed to accommodate the Petitioner's physical and mental disabilities. The Commission is sympathetic to the hardship suffered by the Petitioner while she waited for her housing applications to be approved, but there is no substantial evidence HACC ignored her requests to expedite the processing of her applications. Rather, it appears to the Commission that HACC processed each of the Petitioner's

applications promptly after receiving the applications. The Petitioner has offered no evidence, nor has the Respondent discovered any evidence, from which the Commission could conclude that HACC could have processed the Petitioner's applications even more expeditiously. Further, from an objective standpoint, the Commission finds that a total processing time of 16 days or less per housing application was expeditious, and thus finds no substantial evidence HACC failed to reasonably accommodate the Petitioner's disabilities.

As to Count C and D, concerning the alleged denial of a rent exception, the Petitioner's charge directly relates to a benefit or right derived from federal law; therefore, it is not clear that the Petitioner has stated a claim for relief cognizable under the Act, as neither the Respondent nor the Commission have jurisdiction to investigate or adjudicate claims arising from federal law. See Blount v. Stroud, 232 Ill.2d 302, 326-27, 904 N.E.2d 1, 16 (2009). However, assuming *arguendo* the Petitioner's claims as to the alleged denial of a rent exception are cognizable under the Act, there is no substantial evidence of a violation of the Act.

The Respondent attaches to its Response HUD Notice PIH 2008-13(HA), which articulates HUD's standard for evaluating rent exception requests.<sup>2</sup> The HUD policy specifically provides that rent exceptions may be granted in cases where the "features" of the unit in question are necessary to meet the needs of the disabled person. Therefore, according to the HUD policy, at minimum, the Petitioner had to first demonstrate that the Dobson Apartment contained features that were necessary to meet the needs of her disability—for example, if the Petitioner utilized a large motorized wheelchair, she might need a unit with wider hallways and doorways. The Petitioner also had to demonstrate that there were no other apartments with these specific features available within the limitations of her voucher. The Petitioner did not present any evidence to demonstrate she met HUD's standards.

Similarly, the Commission finds it is reasonable under the Act that, in the first instance, the Petitioner had to at least demonstrate some relationship between the nature of her disabilities and the specific suitability of the Dobson Apartment to her in light of her disabilities, such that HACC should have considered altering its voucher policy. Also, it is clear there were other suitable apartments for the Petitioner within her voucher limitation. Thus there is no substantial evidence that the Hobson Apartment was specifically suitable to meet the needs occasioned by the Petitioner's disability.

Finally, the Petitioner has asserted in her Request the violation of a federal statute, Section 504 of the Rehabilitation Act of 1973. However, as the Respondent correctly determined, the Commission has no jurisdiction to enforce a federal statute. See Blount v. Stroud, at *Id.*

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

---

<sup>2</sup> As stated in HUD Notice PIH 2008-13(HA), rent exceptions are available as a reasonable accommodation pursuant to 24 CFR 982.505(d). It further states that in order to facilitate HUD's review of a rent exception request, the Public Housing Agency (PHA) in question should include a statement from the requestor's health care provider concerning the need for the accommodation and the features of the unit which meet that person's needs. HUD also requires a statement from the PHA that the rent for the unit in question is reasonable and that the unit has the features necessary to meet the needs of the disabled person.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and the Housing Authority of the County of Cook as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

)  
)  
)

**Entered this 12<sup>th</sup> day of May 2010.**

Commissioner Munir Muhammad

Commissioner Diane Viverito

Commissioner Nabi Fakroddin